

### **REMARKS**

Claims 1-19 are pending with this paper. Claims 1-14 stand rejected by the Office Action. Applicant is amending claims 1, 5-8, and 12-14. Applicant is adding claims 15-19, which are supported by the specification as originally filed, *e.g.*, page 5, lines 4-14 and Figure 1.

### **Other Amendments**

In claims 1 and 8, Applicant is replacing “locally produced PEG programming” with “the locally produced PEG programming” because a proper antecedent basis has been established.

In claims 5 and 12, Applicant is replacing “a PEG channel” with the “the PEG channel” and “the same general local interest programming” with “the general local interest programming” because a proper antecedent basis has been established and is replacing “the PEG channels” with “PEG channels” in order to establish an antecedent basis.

### **Claim Rejections - 35 U.S.C. §103**

**Claims 1-14 are rejected under 35 U.S.C. 103 (a) as allegedly being unpatentable over US Publication No. 200310140353 (Hugenberg) in view of US Publication No. 200610041921 (Hane).**

Regarding claim 1, Applicant is amending the claim to include the feature of “when the locally produced PEG programming is available and intended for local broadcast, unconditionally preempting the backdrop programming and providing the locally produced PEG programming on the PEG channel thereby providing the locally produced PEG programming against a backdrop of general local interest programming provided by the cable television network,” which is supported by the specification as originally filed, *e.g.*, page 5, lines 15-28. Applicant is similarly amending independent claim 8 to include the feature of “when locally produced PEG programming is available and intended for local broadcast in a particular local area having a PEG channel, unconditionally preempting the backdrop programming and providing the locally produced PEG programming on the PEG channel in the particular local area thereby providing locally produced PEG programming against a backdrop of general local interest programming provided by the cable television network.”

Regarding claim 6, Applicant is amending the claim to include the feature of “providing locally produced PEG programming on demand with the VOD platform, wherein the locally produced PEG programming on demand is selectable by a subscriber,” which is supported by the patent application as originally filed, *e.g.*, Figure 2 and Page 6, line 21-page 7, line 5. Applicant is similarly amending claim 13.

Regarding claim 7, Applicant is amending the claim to include the feature of “providing locally produced PEG programming on demand with the HSD platform, wherein the locally produced PEG programming on demand is selectable by a subscriber,” which is supported by the patent application as originally filed, *e.g.*, Figure 2 and Page 6, line 21-page 7, line 5. Applicant is similarly amending claim 14.

Regarding claims 1 and 8, the Office Action admits that Hugenberg does not teach (Page 4):

for each local area having a PEG channel, determining an availability of locally produced PEG programming; and  
when locally produced PEG programming is available and intended for local broadcast in a particular local area having a PEG channel, preempting the backdrop programming and providing the locally produced PEG programming on the PEG channel in the particular local area thereby providing locally produced PEG programming against a backdrop of general local interest programming provided by the cable television network.

Regarding claims 1 and 8, the Office Action alleges (Pages 4-5):

However, in an analogous art, Hane teaches a system and method for distributing national and locally produced content, where availability of local or regional content is checked and inserted to be presented to the users after a commitment of transmission (Abstract; [0050]-[0051]; [0057]-[0058]; [0067]-[0070]). The content is not limited to ads as used in the cited example, but locally produced news updates, political content programs, data, etc ([0043]-[0045]; [0076]-[0078]). Additionally, Hane teaches that any person or entity is able to post content but after approval ([0043]-[0045]; [0076]-[0078]; [0081]).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified the feature of Hugenberg's invention of collecting PEG content from the local areas and send it send it back with the rest of the content to respective local areas with Hane's feature of checking for locally produced content and insert it to the national content for the benefit of saving upload (when sending the content to the national facility) and download (sending

national and regional content to local areas) bandwidth and for further serving a community with content that is closer to its interests (Hane: [0014]).

Hane merely discusses parameters of pending delivery commitments so that a local command server can determine which delivery commitment to apply for a local avail (available advertising time period). (Paragraphs 0068-0070.) Hane further discusses conditions (*e.g.*, the price paid by an advertiser) for determining what advertisement (*e.g.*, the Citibank advertisement) to apply to the local avail. For example, if an advertiser pays more money for a local avail, the corresponding advertisement receives a higher priority for the local avail. Consequently, the local command server must process conditional requirements in order to determine what delivery commitment matches an avail profile. While Hane fails to discuss a PEG channel, the Office Action alleges (Page 3. Emphasis added.):

... **Given that there is no technical difference between a PEG channel and the rest of the channels or programming**, Hane's invention is able to preempt, if available, the nationally received PEG content with the locally-produced content.

As alleged by the Office Action, the teachings of Hane apply to all channels, including PEG channels. Consequently, Hane fails to even suggest the feature of “when the locally produced PEG programming is available and intended for local broadcast, **unconditionally preempting** the backdrop programming and providing the locally produced PEG programming on the PEG channel thereby providing locally produced PEG programming against a backdrop of general local interest programming provided by the cable television network.” (Emphasis added.)

Claim 8 includes the similar feature of “when the locally produced PEG programming is available and intended for local broadcast in a particular local area having the PEG channel, unconditionally preempting the backdrop programming and providing the locally produced PEG programming on the PEG channel in the particular local area thereby providing the locally produced PEG programming against a backdrop of general local interest programming provided by the cable television network.” Moreover, claims 2-7 and 9-14 depend from claims 1 and 8 and are patentable for at least the above reasons.

In addition, claim 6 includes the additional feature of “providing locally produced PEG programming on demand with the VOD platform, **wherein the locally produced PEG programming on demand is selectable by a subscriber.**” (Emphasis added.) The Office Action alleges (Page 6.):

Regarding claims 6 and 13, the combined teachings of Hugenberg and Hane teach wherein the cable television network includes a video on demand (VOD) platform, the VOD platform including a library of locally produced PEG programming, the method further comprising providing locally produced PEG programming on demand with the VOD platform (Hane: The local content to be inserted to the cable programming can be on-demand, [0058]. All the local content is stored in local databases, [0058]).

However, Hane merely discusses local command server 52 retrieving content (e.g., an advertisement) on demand from a remote server. However, Hane fails to suggest locally produced PEG programming on demand that is selectable by a subscriber.<sup>1</sup> Claim 13 includes the similar feature of “providing locally produced PEG programming on demand with the VOD platform, wherein the locally produced PEG programming on demand is selectable by a subscriber.”

Also, claim 7 includes the feature of “providing locally produced PEG programming on demand with the HSD platform, **wherein the locally produced PEG programming on demand is selectable by a subscriber.**” (Emphasis added.) The Office Action alleges (Page 6.):

Regarding claims 7 and 14, the combined teachings of Hugenberg and Hane teach wherein the cable television network includes a high speed data (HSD) platform, the HSD platform including a library of locally produced PEG programming, the method further comprising providing locally produced PEG programming on demand with the HSD platform (20, Fig. 1 ; [0036]; [0043]; [0058]. All the local content is stored in local databases, [0058]).

However, Hugenberg and Hane, either individually or in combination, fail to suggest any thing about a high speed data (HSD) platform. Moreover, Hane merely discusses local command server 52 retrieving content (e.g., an advertisement) on demand from a remote server. However, Hane fails to suggest locally produced PEG programming on demand that is selectable by a subscriber. (Paragraph 0058.) Claim 14 includes the similar feature of “providing locally produced PEG programming on demand with the HSD platform, wherein the locally produced PEG programming is selectable by a subscriber.”

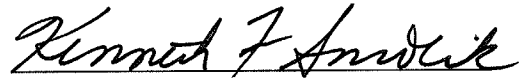
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<sup>1</sup> Hane recites “In operation 308, a copy of the programming or other data to be delivered (e.g., an advertisement according to the above example) is retrieved from a remote server (e.g., data site 33). According to an example embodiment of the present invention, local command server 52 retrieves the programming or other data and stores that content for later broadcast. Alternatively, local command server 52, if coupled with a robust telecommunications network connection to the remote server, may retrieve the file comprising the content to be delivered on demand, thus retrieving and transmitting the content on-demand and in “real time.” (Paragraph 0058.)

All rejections have been addressed. Hence, it is respectfully submitted that the present application is in condition for allowance, and a notice to that effect is earnestly solicited.

Respectfully submitted,

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